

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 291 of 2000

Jabalpur, this the 23<sup>rd</sup> day of March, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman  
Hon'ble Mr. G.Shanthappa, Judicial Member

Gilbert Lal  
Working as Tractor Driver (SK)  
T.No.3818/956/M.T.  
in Grey Iron Foundry  
Jabalpur(MP)

APPLICANT

(By Advocate - Shri B.L. Nag)

VERSUS

1. Union of India  
Thro' The Secretary  
Ministry of Defence  
South Block,  
New Delhi - 110011

2. The Chairman,  
Ordnance Factory Board,  
10-A, Saheed Khudiram Bose Road,  
Calcutta - 700 001

3. The General Manager,  
Grey Iron Foundry,  
Jabalpur(MP)

RESPONDENTS

(By Advocate - Shri P. Shankaram on behalf of Shri  
B.da.Silva)

O R D E R

By G.Shanthappa, Judicial Member -

By filing this original Application, the applicant  
main  
has sought following/reliefs :-

"(a) to quash the impugned order No. GIF/51/VIG/E  
(9/96) dated 02 DEC 1998(Annexure as A-1)  
with consequential benefit.

(b) to direct the Respondents to pay full pay  
and allowances for the suspension period  
from 25 June 1996 to 15 Oct. 1998 along with  
interest at market rate."

2. The brief facts of the case are that the applicant  
was working as Tractor Driver (Skilled) under the third  
respondent. He was detained in custody for a period  
exceeding 48 hours and as a result of which he was placed  
under deemed suspension w.e.f. 25.6.1996 under the  
provisions of Sub-rule (2) of Rule 10 of OCS(CCA) Rule,  
1965 vide order 1st July, 1996. The applicant was

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implicated under Sections 363, 366, 376 and 506-B of IPC by Kotwali Police Station, Jabalpur. The learned Sessions Judge has acquitted the applicant in Criminal Case No. 355/97. The applicant submitted his application dated 5.10.1998 alongwith a copy of the judgment dated 24.9.1998 with a request to revoke the suspension in view of his acquittal from criminal charges. The respondent No. 3 has revoked the order of suspension vide order dated 14.10.1998 and the applicant was reinstated in service w.e.f. 16.10.1998. The respondents have issued a notice dated 16.10.1998 regarding regularisation of suspension period of the applicant. After considering his representation the respondents vide their order dated 2.12.1998 have held that "the period of suspension w.e.f. 25.6.1996 (AN) to 15.10.1998 (FN) should be treated as justified and not spent on duty and also not amounting to break in service and he will be allowed only subsistence allowance already been paid to him." Aggrieved by this the applicant has filed this Original Application claiming the aforesaid reliefs.

3. The respondents have filed their reply denying the averments made in the Original Application. The respondents submitted that the applicant was given a show cause notice dated 16.10.1998 and he was called upon to submit his representation if he so desired against the proposal of treating the period of suspension i.e. 25.6.1996 (AN) to 15.10.1998 (FN) as justified and not spent on duty and also dies non as no Government work has been done due to his own fault of being involved in a criminal offence which had no connection with his official duties. The applicant has submitted his representation and the same was carefully considered by the competent authority and was rejected by passing the impugned order. There is no illegality or



irregularity committed by the respondents. Hence, the applicant is not entitled for the reliefs, as prayed for by him in the Original Application for regularisation of the period of suspension. The said period has to be treated as 'no work no pay'.

4. In a similar case this Tribunal has already taken a decision in OA No. 651/1999 in the case of Jagdish Prasad Rajak vs. Union of India & Ors., decided on 16.02.2004 on the issue involved in the present case. In that case, the relief of the applicant was to direct the respondents to provide all other consequential benefits to the applicant as if he was never placed under suspension and dismissal and grant him arrears of pay, length of service (counting of service), increments, promotion and seniority and all other benefits arising thereto. The facts of the said case were that the applicant was prosecuted in a criminal case under Section 302, 149 and 148 of IPC, he was acquitted from the court and he was denied the payment during the period of suspension. This Tribunal has decided the said case by following the judgment of the Hon'ble High Court of Madhya Pradesh in MP No. 1132/1985 - Jawaharlal Jain vs. Administrative Jabalpur, Municipal Corporation, Jabalpur, decided on 2nd May, 1987 and also on the basis of judgment of the Hon'ble Supreme Court in the matter of The Management of Reserve Bank of India, New Delhi Vs. Bhopal Singh Panchal, reported in AIR 1994 SC 552 and also relying upon the judgment of Hon'ble Supreme Court of India in the matter of Union of India & Ors. Vs. Jaipal Singh, reported in AIR 2003 SC 6635.

5. The facts of the said case and the facts of the present case <sup>are</sup> ~~is~~ similar. Thus we propose to dispose off the present OA in view of the judgment of the Tribunal given



in OA No. 651/1999 on 16.2.2004.

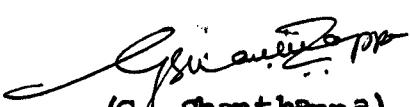
6. In view of the discussion made above, we hold as under :

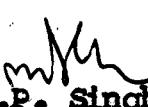
i) The applicant's prayer for backwages during the period of suspension is rejected in view of the judgment of the Hon'ble Supreme Court in the case of Bhopal Singh Panchal (supra).

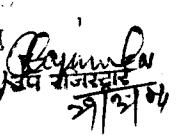
ii) The respondents are directed to pay the applicant the subsistence allowance in terms of the revised pay scale as per the direction given by the Full Bench of this Tribunal in OA No. 560/1996 in the matter of J.S. Kharat vs. UOI & Ors. passed on 26.8.2002. However, this will be subject to outcome of the pending writ petition as stated by the learned counsel for the respondents in OA No. 651/1999.

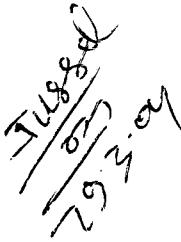
iii) As regards regarding grant of increments during the period of suspension, we are bound by the judgment of the Hon'ble High Court of Madhya Pradesh in the case of Jawaharlal Jain (supra). Hence the respondents are directed to grant increment to the applicant during the period of suspension.

7. For the reasons stated above, the present Original Application is disposed of with further direction to the respondents to comply with the above directions within a period of four months from the date of receipt of a copy of this order. No costs.

  
(G. Shanthappa)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman

पृष्ठांकन सं. ओ/ज्ञा. .... दिनांक, दि. ....  
दस्तावेज़ (1) राज्यपाल, दिनांक, दि. .... दस्तावेज़ B.L. Mung  
"SA" (2) विधायक, दिनांक, दि. .... दस्तावेज़ P. Shantappa  
(3) प्रदीपीका, दिनांक, दि. .... दस्तावेज़ P. Shantappa  
(4) विधायक, दिनांक, दि. .... दस्तावेज़  
सूचना एवं आवश्यक कार्यपाल द्वारा  
  
दस्तावेज़ दिनांक, दि. ....

  
दस्तावेज़ दिनांक, दि. ....